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HOUSE BILL 258

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Edward C. Sandoval

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; GRADUATING THE RATE OF THE GAMING TAX ON  
CERTAIN RACETRACKS BASED ON THE RACETRACK'S NET TAKE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-2E-47 NMSA 1978 (being Laws 1997,  
Chapter 190, Section 49, as amended) is amended to read:

"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of  
engaging in gaming activities in the state. This tax shall be  
known as the "gaming tax".

B. The gaming tax is an amount equal to:

(1) ten percent of the gross receipts of  
manufacturer licensees from the sale, lease or other transfer  
of gaming devices in or into the state, except receipts of a  
manufacturer from the sale, lease or other transfer to a

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1 licensed distributor for subsequent sale or lease may be  
2 excluded from gross receipts;

3 (2) ten percent of the gross receipts of  
4 distributor licensees from the sale, lease or other transfer of  
5 gaming devices in or into the state;

6 (3) ten percent of the net take of a gaming  
7 operator licensee that is a nonprofit organization; [~~and~~]

8 (4) for a gaming operator licensee that is a  
9 racetrack, twenty-six percent of the net take, except if the  
10 total net take for a racetrack that paid gaming taxes in the  
11 preceding calendar year was less than fourteen million dollars  
12 (\$14,000,000) in that year, the gaming tax for that racetrack  
13 is ten percent until the cumulative net take in the current  
14 calendar year exceeds ten million dollars (\$10,000,000);  
15 thereafter, for the remainder of the calendar year, the gaming  
16 tax is twenty-six percent of the net take; and

17 (5) twenty-six percent of the net take of  
18 every other gaming operator licensee.

19 C. For the purposes of this section, "gross  
20 receipts" means the total amount of money or the value of other  
21 consideration received from selling, leasing or otherwise  
22 transferring gaming devices.

23 [~~C.~~] D. The gaming tax imposed on a licensee is in  
24 lieu of all state and local gross receipts taxes on that  
25 portion of the licensee's gross receipts attributable to gaming

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1 activities.

2 [~~D-~~] E. The gaming tax is to be paid on or before  
3 the fifteenth day of the month following the month in which the  
4 taxable event occurs. The gaming tax shall be administered and  
5 collected by the taxation and revenue department in cooperation  
6 with the board. The provisions of the Tax Administration Act  
7 apply to the collection and administration of the tax.

8 [~~E-~~] F. In addition to the gaming tax, a gaming  
9 operator licensee that is a racetrack shall pay twenty percent  
10 of its net take to purses to be distributed in accordance with  
11 rules adopted by the state racing commission. An amount not to  
12 exceed twenty percent of the interest earned on the balance of  
13 any fund consisting of money for purses distributed by  
14 racetrack gaming operator licensees pursuant to this subsection  
15 may be expended for the costs of administering the  
16 distributions. A racetrack gaming operator licensee shall  
17 spend no less than one-fourth percent of the net take of its  
18 gaming machines to fund or support programs for the treatment  
19 and assistance of compulsive gamblers.

20 [~~F-~~] G. A nonprofit gaming operator licensee shall  
21 distribute at least sixty percent of the balance of its net  
22 take, after payment of the gaming tax and any income taxes,  
23 for charitable or educational purposes."

24 Section 2. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2009.

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